

REMARKS/ARGUMENTS

An Abstract in proper domestic form has been presented.

The above amendments to Claims 1, 20 and 30 address the rejection presented under Section 112 by defining X in the alternative. Claims 28 and 29 have been placed in conventional U.S. format. No new matter has been presented.

Claims 31 and 32 have been changed to eliminate intended use. To any extent that these claims are withdrawn, they should be rejoined and allowed along with claim 30 from which they depend.

As correctly noted in the PTO electronic file listing of Applicant's claims, Article 34 amendments were filed herein which include a "proviso," or exclusion, of certain compounds from Claim 1:

...provided, however, that

R₁ is not a dimethylamino group when R₃ is hydroxy, and both R₂ and R₄ are a hydrogen atom;

R₁ is not a dimethylamino group when in the substituent =N-O-R₅ in the 9 position, R₅ is a hydrogen atom, a linear or branched C₁-C₅ alkyl, an unsubstituted benzyl group, or a chain -(CH₂)_r-X-(CH₂)_m-Y-(CH₂)_n-A where r is 1, X is O, M is 2, Y is O, n is 1, and A is H;

R₁ is not a methylethylamino group when in the substituent =N-O-R₅ in the 9 position, R₅ is a linear or branched C₁-C₅ alkyl, or an unsubstituted benzyl group.

This "proviso" patentably distinguishes this claim and claims dependent thereon from the applied references.

In this regard, the proviso "R₁ is not a dimethylamino group when in the substituent =N-O-R₅ in the 9 position, R₅ is a hydrogen atom, a linear or branched C₁-C₅ alkyl, an unsubstituted benzyl group, or a chain -(CH₂)_r-X-(CH₂)_m-Y-(CH₂)_n-A where r is 1, X is O,

m is 2, Y is O, n is 1, and A is H” distinguishes the claims from Bonnet as =N-O-R₅ is the oxime group formed by R₃ and R₄ in Claim 1 herein and represented in Bonnet as =N-O-R₁. Applicants’ claimed R₁ position is always a dimethylamino group in all formulae disclosed in Bonnet. Thus, neither the claimed compounds, nor their methods of use, are disclosed or suggested by Bonnet. As Bonnet suggests only that his disclosed compounds are useful intermediates in the preparation of active products, pharmaceutical compositions and methods of treating inflammatory and respiratory diseases are not suggested.

For similar reasons, the proviso “R₁ is not a dimethylamino group when R₃ is hydroxy, and both R₂ and R₄ are a hydrogen atom” excludes the compounds of Lundy, because in Lundy when R₃ is hydroxy and both R₂ and R₄ are a hydrogen atom R₁ is a dimethylamino group. Moreover, the pertinent compounds disclosed in Lundy at, e.g., Column 10 are described as useful only as intermediates in the preparation of active products. Thus, pharmaceutical compositions and methods of treating inflammatory and respiratory diseases as claimed herein are not suggested.

Ku fails to disclose any claimed compound in Claims 20 or 28 because Claim 20 recites that “R₁ is not an N,N-dimethyl amino group” and because Claim 28 relates to a compound where R₁ is a monomethylamino group, rather than a dimethyl amino group as disclosed in the reference.

Finally, the combination of Agouridas with Bonnet and Lundy fails to present a prima facie case against Claims 17-19 as neither Bonnet nor Lundy disclosed the claimed compounds.

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Accordingly, and in view of the above, Applicant respectfully requests the reconsideration and withdrawal of the outstanding rejections, and the passage of this case to Issue.

Respectfully submitted,

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